

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JABBAR NEWSON,

Petitioner,

Civil No. 2:08-CV-11376

v.

HONORABLE PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

GERALD HOFBAUER,

Respondent,

**ORDER RE-ASSIGNING PETITION FOR WRIT OF HABEAS CORPUS
AS A COMPANION CASE TO JUDGE ARTHUR J. TARNOW AND DIRECTING THE
CLERK OF THE COURT TO RE-FILE THE PLEADINGS IN THIS CASE UNDER
CASE DOCKET # 03-CV-70958**

This matter is before the Court on a petition for writ of habeas corpus brought by Jabbar Newsom, (“petitioner”), presently confined at the Marquette Branch Prison in Marquette, Michigan. Petitioner, in his *pro se* application, seeks the issuance of a writ of a habeas corpus pursuant to 28 U.S.C. § 2254, in which he challenges his conviction for second-degree murder, M.C.L.A. 750.317; assault with intent to commit murder, M.C.L.A. 750.83; and felony-firearm, M.C.L.A. 750.227b. Petitioner previously filed a petition for writ of habeas corpus before Judge Arthur J. Tarnow of this district, which challenged the same convictions. On October 24, 2003, Judge Tarnow dismissed the petition without prejudice, but stayed the habeas proceedings and held the petition in abeyance while petitioner returned to the state courts to exhaust additional claims. Judge Tarnow also directed petitioner to re-file his habeas petition within thirty days of completing state post-conviction proceedings. *See Newsom-Bey v. McKee*, U.S.D.C. No. 03-CV-70958 (E.D. Mich. October 24, 2003)(Tarnow, J.). Judge Tarnow subsequently issued an Order for Administrative Closing, in which he clarified that the case was closed for administrative

purposes without prejudice. Judge Tarnow further clarified that the stay of the petition continued pursuant to the Court's original order of October 24, 2003. *See Newson-Bey v. McKee*, U.S.D.C. No. 03-CV-70958 (E.D. Mich. February 7, 2005)(Tarnow, J.). Petitioner has now filed the instant petition, in which he again seeks habeas relief from the convictions that he challenged in the petition before Judge Tarnow. Petitioner, in fact, refers to this previously filed habeas petition in his current habeas application and that this petition had been held in abeyance. (See Application and Petition for Writ of Habeas Corpus, pp. 10-11, ¶¶ 14, 15). For the reasons stated below, the Court orders that petitioner's application for writ of habeas corpus be re-assigned to Judge Tarnow as a companion case to petitioner's previously filed habeas petition. The Court will further order that the relevant pleadings filed in this case be re-filed by the Clerk of the Court under Case Docket # 03-CV-70958.

Eastern District of Michigan Local Rule 83.11 governs the re-assignment of companion cases, stating that “[c]ompanion cases are those in which it appears that: (I) substantially similar evidence will be offered at trial, or (ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence.” U.S. Dist.Ct. Rules, E.D. Mich. LR 83.11(b)(7). *See also Sims-Eiland v. Detroit Bd. of Educ.*, 184 F.R.D. 268, 269, n. 1 (E.D. Mich. 1999). Additionally, U.S. Dist.Ct. Rules, E.D. Mich. LR 83.11(b)(5) states that: “Successive habeas corpus petitions challenging the same conviction or sentence regardless of grounds asserted shall be assigned to the Judge to whom the original petition was assigned or to the Judge who is appointed to fill the vacancy of that Judge.” Finally, in the interests of time and judicial economy, petitioner's two habeas applications should be consolidated into one action pursuant to Fed.R.Civ. P. 42. *See Bernal v. Helman*, 958 F. Supp. 349, 351-52 (N.D. Ill. 1997).

Accordingly, the Court **ORDERS** the Clerk of the Court to re-assign this case to Judge Arthur J. Tarnow of the United States District Court for the Eastern District of Michigan as a companion case to *Newson-Bey v. McKee*, U.S.D.C. No. 03-CV-70958.

IT IS FURTHER ORDERED that the Clerk of Court shall re-file in Case Docket # 03-CV-70958 docket entries 1 and 3 from Case Docket # 2:08-CV-11376.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: April 30, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on April 30, 2008.

s/Denise Goodine
Case Manager